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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,178	08/11/2006	Achim Hansen	1093-161 PCT/US	5881
23869 7590 10/06/2009 HOFFMANN & BARON, LLP 6900 JERICHO TURNPIKE SYOSSET, NY 11791				
EXAMINER				
LEWIS, JUSTIN V				
ART UNIT		PAPER NUMBER		
3725				
MAIL DATE		DELIVERY MODE		
10/06/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/589,178	Applicant(s) HANSEN, ACHIM
Examiner JUSTIN V. LEWIS	Art Unit 3725

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 September 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 16-30.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☒ Other: See Continuation Sheet.

/Greg Vidovich/
TQAS, TC 3700

/Justin V. Lewis/
Examiner, Art Unit 3725

Continuation of 11, does NOT place the application in condition for allowance because: In response to Applicant's argument that Hardwick neither teaches nor suggests a security document with additional layers containing moiré patterns or analyzers that are applied to the substrate (see Applicant's Arguments/Remarks pg. 9, lines 8-10), Examiner respectfully asserts that Hardwick explicitly teaches a "security document" (1) with "layers" (security devices 20) that are applied to the substrate (see paragraph 18). Said "layers" may contain moiré patterns or analyzers (see paragraph 22).

In response to Applicant's argument that Hardwick does not teach or suggest a security document with more than one security device (see Applicant's Arguments/Remarks pg. 9, lines 10-11), Examiner respectfully asserts that Hardwick explicitly provides that "...the security device may be applied to at least one of the first and second surfaces of the substrate" (see paragraph 18). From such language, a person of ordinary skill in the art at the time of the invention would recognize that Hardwick teaches the application of more than one security device.

In response to Applicant's argument that Examiner has failed to identify the "at least three additional layers" because they are not present in the security documents disclosed by Hardwick (see Applicant's Arguments/Remarks pg. 10, lines 4-5), Examiner respectfully asserts that Hardwick explicitly provides that a variety of security devices may be employed in the invention, including moiré patterns, analyzers, etc. (see paragraph 22). Furthermore, as provided above, Hardwick explicitly provides that more than one security device may be applied to said substrate.

In response to Applicant's argument that there is no teaching or suggestion of any additional layers applied to the surface of the substrate which would be suitable for forming a security device (see Applicant's Arguments/Remarks pg. 10, lines 10-11), Examiner respectfully asserts that Hardwick explicitly provides that a variety of security devices may be employed in the invention, including moiré patterns, analyzers, etc. (see paragraph 22). Furthermore, Hardwick explicitly provides that more than one security device may be applied to said substrate, as provided above.

In response to Applicant's argument that there is no teaching or suggestion in Hardwick that moiré patterns can be formed within the substrate (see Applicant's Arguments/Remarks pg. 10, lines 20-21), Examiner respectfully asserts that as written, claim 16 fails to claim a moiré pattern formed within the substrate, thus rendering Applicant's argument with respect thereto moot.

In response to Applicant's argument that there is no teaching or suggestion in Hardwick of "additional layers" containing moiré patterns or analyzers that are applied to the substrate as required by claim 16 (see Applicant's Arguments/Remarks pg. 10, line 21 - pg. 11, line 2), Examiner respectfully asserts that Hardwick explicitly provides that a variety of security devices may be employed in the invention, including moiré patterns, analyzers, etc. (see paragraph 22). Furthermore, as provided above, Hardwick explicitly provides that more than one security device may be applied to said substrate.

In response to Applicant's argument that there is no teaching or suggestion in Hardwick of a first layer applied to the substrate with "different parts" of a moiré pattern "applied to the first and second surfaces," (see Applicant's Arguments/Remarks pg. 11, lines 15-17), Examiner respectfully asserts that Hardwick explicitly provides that a variety of security devices may be employed in the invention, including moiré patterns, analyzers, etc. (see paragraph 22). Furthermore, as provided above, Hardwick explicitly provides that more than one security device may be applied to said substrate.

In response to Applicant's argument that one skilled in the art would not combine the security device in fig. 1 with the security device formed by the moiré patterns of Hardwick (see Applicant's Arguments/Remarks pg. 13, lines 3-4), Examiner respectfully asserts that Hardwick explicitly provides that a variety of security devices may be employed in the invention, including moiré patterns, analyzers, etc. (see paragraph 22). Furthermore, as provided above, Hardwick explicitly provides that more than one security device may be applied to said substrate. Thus, said combination is fully supported by the reference.

In response to Applicant's argument that if another moiré pattern were applied to the surfaces of the moiré patterns in fig. 6, it would either destroy or interfere with the moiré patterns already there (see Applicant's Arguments/Remarks pg. 13, lines 8-10), Examiner respectfully asserts that Hardwick explicitly provides that a variety of security devices may be employed in the invention, including moiré patterns, analyzers, etc. (see paragraph 22). Furthermore, as provided above, Hardwick explicitly provides that more than one security device may be applied to said substrate. However, the reference fails to include any instructions regarding limitations regarding the placement of moiré patterns.

In response to Applicant's argument that a person of ordinary skill in the art would understand that Hardwick teaches away from interposing the security device between the two moiré patterns (see Applicant's Arguments/Remarks pg. 13, lines 12-13), Examiner respectfully asserts that Applicant's support for said argument rests completely upon Applicant's own subjective opinions, as opposed to explicit recitations of such "teaching away" provided in the reference.

In response to Applicant's argument that a person skilled in the art would not combine the security device of fig. 1 with the moiré patterns of fig. 6 (see Applicant's Arguments/Remarks pg. 14, lines 3-5), Examiner respectfully asserts that Hardwick explicitly provides that a variety of security devices may be employed in the invention, including moiré patterns, analyzers, etc. (see paragraph 22). Furthermore, as provided above, Hardwick explicitly provides that more than one security device may be applied to said substrate.

combined with the "front-to-back registration device" embodiment shown in fig. 6 (see Applicant's Arguments/Remarks pg. 14, lines 20-22). Examiner respectfully asserts that Hardwick explicitly provides that a variety of security devices may be employed in the invention, including moiré patterns, analyzers, etc. (see paragraph 22). Furthermore, as provided above, Hardwick explicitly provides that more than one security device may be applied to said substrate.

In response to Applicant's argument that a person skilled in the art would understand that Hardwick does not suggest the inclusion of "security device 20" in the embodiment shown in fig. 6 (see Applicant's Arguments/Remarks pg. 14, line 24- pg. 15, line 2). Examiner respectfully asserts that Hardwick explicitly provides that a variety of security devices may be employed in the invention, including moiré patterns, analyzers, etc. (see paragraph 22). Furthermore, as provided above, Hardwick explicitly provides that more than one security device may be applied to said substrate.

In response to Applicant's argument that there is no teaching or suggestion in Hardwick that would lead one of ordinary skill in the art to combine "security device 20" of fig. 1 with "first pattern 40" and "second pattern 50" of fig. 6 (see Applicant's Arguments/Remarks pg. 15, lines 5-7). Examiner respectfully asserts that Hardwick explicitly provides that a variety of security devices may be employed in the invention, including moiré patterns, analyzers, etc. (see paragraph 22). Furthermore, as provided above, Hardwick explicitly provides that more than one security device may be applied to said substrate.

In response to Applicant's argument that claim 22 is not obvious in view of Hardwick and Kaule, based upon Applicant's argument that Hardwick fails to anticipate claim 16 (see Applicant's Arguments/Remarks pg. 16, line 13), Examiner respectfully invites Applicant to see the responses set forth above.

In response to Applicant's argument that claim 24 is not obvious in view of Hardwick and Murakami, based upon Applicant's argument that Hardwick fails to anticipate claim 16 (see Applicant's Arguments/Remarks pg. 16, lines 18-19), Examiner respectfully invites Applicant to see the responses set forth above.

In response to Applicant's argument that claims 26-28 are not obvious in view of Hardwick and Drinkwater, based upon Applicant's argument that Hardwick fails to anticipate claim 16 (see Applicant's Arguments/Remarks pg. 17, lines 9-10), Examiner respectfully invites Applicant to see the responses set forth above.

In response to Applicant's argument that claim 29 is not obvious in view of Hardwick and Fell, based upon Applicant's argument that Hardwick fails to anticipate claim 16 (see Applicant's Arguments/Remarks pg. 17, line 18), Examiner respectfully invites Applicant to see the responses set forth above.

In response to Applicant's argument claiming that the statement within the Interview Summary of 08 September 2009 is partially incorrect (see Applicant's Arguments/Remarks pg. 18, line 6), Examiner respectfully asserts that said statement accurately summarizes the position that Applicant's representative took during said interview. Despite Examiner's multiple attempts to recite the exact words of claim 16, Applicant's representative continuously maintained that three moiré analyzers were called for. Examiner does not expect, that Applicant's representative now appears to realize that as drafted, claim 16 merely calls for: i) a carrier layer; ii) a layer containing a moiré pattern; and iii) two or more secondary layers containing moiré analyzers.

In response to Applicant's argument that the appearance of a particular combination is neither taught nor suggested by Hardwick (see Applicant's Arguments/Remarks pg. 20, line 17- pg. 21, line 1), Examiner respectfully asserts that the present application is a "utility" application, concerning the mechanical structure of the claimed invention- not a "design" application directed toward what it "looks like." As such, Applicant's argument is rendered moot.

In response to Applicant's argument that a person of ordinary skill in the art would not find that a particular combination would yield the object of value in Applicant's claim 16 (see Applicant's Arguments/Remarks pg. 21, lines 1-2), Examiner respectfully asserts that such a person of ordinary skill in the art would only need to examine the content of Hardwick to see that the reference anticipates all of the limitations contained within Applicant's claims, as presently drafted.

In response to Applicant's argument that a particular combination does not teach or suggest the three layers (21, 31, 33) (see Applicant's Arguments/Remarks pg. 21, lines 5-6), Examiner respectfully asserts that Hardwick explicitly provides that a variety of security devices may be employed in the invention, including moiré patterns, analyzers, etc. (see paragraph 22). Furthermore, as provided above, Hardwick explicitly provides that more than one security device may be applied to said substrate.

In response to Applicant's argument that the combination of two moiré patterns suggested by Examiner does not anticipate claim 16 (see Applicant's Arguments/Remarks pg. 10-11), Examiner respectfully invites Applicant to see the responses set forth above in combination with the content of the previously issued Office Action.

Continuation of 13. Other: With regard to paragraph 7, above, amended claim 16 will be rejected on the same ground used in the most recent Office Action, as Applicant has merely amended to correct a typographical error.